

Minutes
Agricultural & Natural Resources Advisory Committee
Thursday, January 8, 2015, at 9:00 am
Charlotte County Building Construction Services
Large Conference Room
18400 Murdock Circle
Port Charlotte, FL 33948-1094

MEMBERS PRESENT

Andy Dodd, Chairman
Orrin Webb, Secretary
Steve Smith
Lindsay Harrington
Nigel Morris
David Kemeny

MEMBERS EXCUSED

MEMBERS ABSENT

Dan Ryals
Chris Hencher

GUESTS

Gary Bayne, Southwest Engineering and Design
Rob Berntsson, Big W Law Firm
Elizabeth Andres, Kitson & Partners
Gene Mooney, Ben Hill Griffin, Inc.
Emery Smith, Ben Hill Griffin, Inc.
Matt Warren, FDACS
Andy Neuhofer, Florida Farm Bureau

STAFF

Commissioner Ken Doherty
Matt Trepal, Staff Liaison
Ralph Mitchell, Environmental & Extension Services

CALL TO ORDER/ROLL CALL/DETERMINATION OF QUORUM

The **January 8, 2015** meeting of the ***Agricultural and Natural Resources Advisory Committee*** was called to order at 9:03 a.m. by ***Chairman Dodd*** who noted that there was a quorum present.

ADDITIONS/DELETIONS TO AGENDA

None.

APPROVAL OF MINUTES

Chairman Dodd called for action on the minutes of Sept 11, 2014 which were approved on a motion by ***Mr. Webb***, second by ***Mr. Morris***, and unanimously carried. Upon determining that there were no deletions or additions being proposed to today's agenda, Chair Dodd asked members

ANRAC Minutes

January 8, 2015

Page 2 of 6

to introduce themselves, there being so many new faces at the table; he also noted the retirement of Barbara Carlton. He then turned the meeting over to Commissioner Doherty for comments regarding east county drainage initiatives, Waters legislation, and impact fees.

NEW BUSINESS

- ❖ East Charlotte County Drainage
- ❖ Waters of the United States, EPA Rulemaking
- ❖ Impact Fees

COMMISSIONER COMMENTS

Commissioner Doherty spoke on the new business items, giving members an update on status of each, which he indicated were all in a very fluid state of progress.

With regard to East Charlotte Drainage issues, the Commissioner noted that this is essentially stalled-out. The background information he mentioned indicated that the area had heavy rainfall and flooding / wash-out issues during the summer of 2013, and some county structures in the area failed (all east/west roads were impacted, but Little Farm Rd. had particular problems) and the situation has never been effectively resolved. Commissioner Doherty noted that there is an area MSBU set up to handle maintenance of the roads and the secondary drainage structures (pipes alongside the road which are different from culverts taking water across/under the roads.)

Commissioner Doherty then spoke about the existing stormwater MSBUs serving the county's various areas which have been broken up into Mid, South, and East County areas. The challenge with South County is that it is a very diverse landscape, from rural lands east of I-75 to the subdivisions west of that line. The Commissioner noted that the South County MSBU has yet to produce an effective work plan.

Little Farm Rd. in particular is a primary drainage issue (not a secondary drainage issue); the slough coming from the north has great impact. The challenge for the County is how to pay for effective work which would run hundreds of thousands of dollars. The Board was not happy with the numbers presented by staff and asked for other design options; the reworked plans were not much better. This year produced less summer rain; the Board is still not settled on how the whole thing should work (what properties should be included, etc.), but are firm that it can't be benefitting only Little Farm Rd. So, while the problem was dodged this year (due to less rain), the Commission is now turning to members and others to hear suggestions, while also aware that there is some proposed FDOT work that may impact the situation.

Mr. Neuhofer arrived.

Mr. Bayne spoke on this subject, the Charlotte Flatwood Initiative Program, providing a description of issues and proposed work to be done. Generally, it involves creating a reservoir that would feed the Yucca Pen and Charlotte Flatwoods area, which are water starved since the construction of I-75 effectively created a dam. This work, which would take place in conjunction with the I-75 widening project, would include a drainage conveyance which should mitigate about 10-15% of the existing sheet flow activity. Mr. Morris asked where the reservoir would go; Mr. Bayne described the proposed location on I-75 where a canal goes under the interstate, off Oil Well Road on the east side of the jail.

Mr. Doherty noted the property is actually in the Caloosahatchie watershed; Mr. Bayne responded with comments on the role of Lee County in this effort. Mr. Harrington asked how the water would be conveyed under the interstate; Mr. Bayne and Mr. Warren of FDOT commented there would be

ANRAC Minutes

January 8, 2015

Page 3 of 6

no pumping, it will be a canal. Mr. Harrington pointed out state of Florida lands to the north are part of the planning and they are doing nothing; Mr. Doherty commented on this issue, referencing historical responses which have added to the problems. He indicated that he doesn't yet know how much relief this FDOT plan will provide; it is too soon to fund other initiatives while this is unknown. In addition, the Waters of the US initiative will certainly change the basics. Finally, of course, there is no funding anywhere for this kind of work.

Commissioner Doherty made further comments about the unsettled state of the law right noting that this is a top priority with all businesses in Florida; there is no assurance that the Waters initiative can be stopped, but if it can't be, it will affect everyone.

Mr. Harrington asked for clarification on the Commissioner's definition of 'east county'. Mr. Harrington indicated he is against any MSBU imposed on residents out there. Commissioner Doherty responded that Mr. Harrington's historical concerns are valuable, but there is new stuff on the horizon that will sweep all that aside in terms of importance.

Chair Dodd spoke, and invited comment from the Ben Hill Griffin members in the group, to address Farrabee Rd. conditions, which is now it's own district. Commissioner Doherty indicated his understanding that the Farrabee Rd. MSBU collects enough to grade the road occasionally, and noted that if residents and other users of the road didn't do their own maintenance, the road would be a mess. Further discussion ensued amongst Chair Dodd and Commissioner Doherty whether this is an MSBU or an MSTU.

Commissioner Doherty said that the catalyst for these discussion has been Little Farm Rd., but that's on the back burner now; it costs too much to fix it as is. As for the drainage work going on to the west, there is as yet no real understanding what the positive impact will be from that. Finally, regarding this new Waters initiative on the horizon, this is not the right time to initiate work programs. There may turn out to be other funding sources from state or federal government, but that is also unknown at this time. Mr. Berntsson commented on some work being done at Babcock which will also affect the basics; Commissioner Doherty agreed that this is typical of private work that is being proposed that may assist with the issues, but again, the outcome is unknown and when it's over, the question will still likely be: where is the money for a fix coming from?

With regard to the Waters of the United States initiative, Commissioner Doherty explained the basics, noting that this is not a legislative issue (the Clean Water Act is already in place); the current questions concern challenges to the jurisdictional authority. The concern at EPA and the Corps of Engineers has been to better define what is the true definition of "waters of the United States: It used to be simply "navigable waters". In Commissioner's own opinion, the packaging of this issue has been given as "water quality" whereas he believes it is instead a grab by the federal government to expand their jurisdiction.

Because this matter concerns rule-making at EPA and not legislation, federal legislators have avoided it. The House of Representatives jumped in, last September, working to stop it; their initiative went to the Senate and died there. Now that there is a change in politics in the Senate there is the hope it will be resurrected, but the concern is that the President will veto it , and there's not sufficient votes to overturn that veto.

Commissioner Doherty said his approach is that we should all keep pushing on it, perhaps for a legislative fix; including being very vocal about how this initiative will affect us in Florida as a community. The EPA deadline for submitting objections to this initiative was Nov. 14th; Commissioner Doherty passed out a copy of the communication sent by Charlotte County on the subject to EPA, which includes an estimated economic impact to Charlotte County alone of \$900

ANRAC Minutes

January 8, 2015

Page 4 of 6

million to \$2 billion to comply. He also provided maps of current the federal jurisdictions vs. what the post-rule jurisdiction would look like (the whole county, essentially).

Commissioner Doherty said that when he talks about east county stormwater MSTU options, you really have to wait for this other thing to hit and the effects to be known; he commented on the communication sent to the Corps in objection, which was the same as what went to EPA; EPA received something like 200,000 letters of objection and they are now reviewing those. The argument in our letter is that the state of Florida has not been negligent regarding water quality and we are trying to communicate that a 'one-size rule' does not fit all areas of the country. The important take-away is: We can't live with this; everybody needs to be working hard against it. You, along with your organizations, all need to step up to help the effort.

Commissioner Doherty indicated that the need now is for a one-point contact for all objections to be sent to, and he said he felt the logical entity would be FDEP in Tallahassee. He also noted that it was important to have a coordinated effort so that all the various County responses have the greatest impact.

A guest representing the Ben Hill Griffin concern commented on the engagement of the Florida AG Coalition on this matter. Commissioner Doherty indicated that he had spoken to Adam Putnam and assured the group that he's well aware of the issues. Further discussion ensued on this matter; Mr. Berntsson asked why Florida is hit harder than other states, and Commissioner Doherty suggested he look at the definitions, which may grant jurisdiction over ground water, floodplain, etc. The basics are different here in Florida, particularly here where the land is flatter.

Commissioner Doherty also pointed out that this new initiative even affects time frames under which agencies must respond to permitting concerns; Army Corps does not have the same time limits that Florida's state agencies do; County economic development could be shut down while people wait for federal agency responses.

Mr. Bayne asked what would the quoted price tag of \$800 million to \$2 billion be going for; Commissioner Doherty indicated that the number was staff-generated and he was not certain what it covered, but that it might be for things like improved treatment facilities. Mr. Berntsson asked what the next step would be; Commissioner Doherty indicated that the next move will be from the EPA, after they complete consideration of all the pushback they received, and he indicated that the County will need to create someone or some agency to coordinate our voices of objections. Mr. Bayne went back to the estimated cost to the County, and wondered if they including a request for a master stormwater for the county, and if so, would that relieve us from doing individual site stormwater. Commissioner Doherty said that is just one of many unknowns about the initiative. Further discussion ensued on related points.

The next subject raised concerned the County's impact fees. Commissioner Doherty reported that a study had been done by Tindall Oliver analyzing what impact fees should be here (primarily non-transportation such as parks, public facilities, etc.) The RSF district, for example came in at \$8704 for everything, including transportation. Currently, under a moratorium which excludes everything except transportation, it comes in at around \$1700.

So the Board considered what to do; the question at present is, what are our capital needs? The sales tax just approved will take care of some of these projects. He had asked Administration to provide the Board with information on which projects are not funded right now, and going forward for the next 10-15-20 years. The list of unfunded capital projects (which includes roads, utilities, and general facilities) runs about \$600 million, and that is an incomplete list; there will be more added. There is no funding for any of this.

Also it should be noted that this is about County collector roads, not local residential streets which are handled through a separate funding mechanism. We have roads in the county that are in such poor shape through years of neglect that they can't even take maintenance, they need to be reconstructed. This is typical throughout the country; and in fact it is a national issue. The Commission reminded the group of the interstate Minnesota bridge that collapsed several years ago, emphasizing that this is a problem everywhere, it is a crisis that needs to be addressed. He pointed out that Charlotte County has asbestos cement waterlines that need to be replaced. This is all the result of years-long neglect, and it constitutes a community crisis that needs to be addressed promptly.

Therefore, when the Board met, they had to consider this; beginning with a 100% number (e.g., \$8700 in RSF), the majority of the Board was uncomfortable with that level. The true solution to the larger issue is Economic Development and expansion of the tax base, because these costs imposed on the existing population are insupportable. But figures like \$8700 are not competitive. So, considering this, the Board took one-third of that 100% as our starting point, which is in line with North Port, Lee County (although North Port is talking about raising theirs), but then DeSoto is at zero. So the motion was to go in one-third increments over the next 3 years, and even that is a drop in the bucket compared to what is needed.

Mr. Berntsson commented that the effort being put into impact fees is like a Band-Aid; we could gain so much by saying "we don't have any impact fees". Commissioner Doherty commented on this concept, noting that he has asked for specificity regarding these required projects, with year-by-year horizon lines; in addition to the time frames, he asked for information on how many are actually needed. He noted, though, that whatever the answer, it's still going to be a huge number. The challenge to the community will be to choose how to handle this need, especially if people decide that impact fees don't make sense. Mr. Berntsson's suggestion was to increase the millage. Commissioner Doherty countered that the perfect solution would be an expanded tax base with millage staying at the same rate. Further discussion ensued on this topic, with the Commissioner noting that it has been pointed out that having no impact fees didn't do us any good. Mr. Berntsson countered that it was poor policies in the past that were an issue, but that situation is improving; in the meantime, the recession made the impact fee adjustment ineffective.

Mr. Harrington challenged some of the items on the list as being stupid; Commissioner Doherty countered with the question whether those same items would still be considered stupid in 20 years. Discussion continued on the general subject, ending with the Commissioner's request that people come and speak on the 27th when the BCC will discuss these issues again.

OLD BUSINESS

Unified Land Development Code

Mr. Trepal indicated the project was no longer "unified" as it is now replacing existing Code in segments; it is being done in stages to accommodate the sheer size of the project. The Districts and Uses segments have been adopted; and further sections are coming before P&Z over time. Mr. Berntsson also commented from his vantage point of having worked with staff on the language changes. Chair Dodd noted that the Earthmoving revisions are also being adopted at the next Board meetings.

Comprehensive Plan Revisions

Questions about the challenge to the Comp Plan were addressed. Mr. Berntsson noted that a hearing on the challenge had been scheduled for the 7-9th of January, but that was continued for

ANRAC Minutes

January 8, 2015

Page 6 of 6

settlement discussions. He noted that there were two different challenges, one by the Friends of Cape Haze regarding TDU issues, and the other by the Sierra Club, challenging across the board but focusing specifically on wetland issues.

Chair Dodd commented that he had thought there wouldn't be any settlement; Mr. Berntsson responded, noting it would depend on how it's worked out. He also said that no further challenges would be entertained and that any settlement would have to be accepted by the Commission in any event.

CORRESPONDENCE AND COMMUNICATIONS

None.

PUBLIC COMMENTS

None offered.

STAFF COMMENTS

Mr. Ralph Mitchell gave comments on recent Extension activities; he also provided calendars to the group.

MEMBER COMMENTS

None offered.

FUTURE MEETING TOPICS

Not discussed.

GUEST COMMENTS

Mr. Berntsson indicated that he has a client with acreage who is looking for a bee-keeper; if anyone has suggestions, they would be welcome.

NEXT MEETING

- ❖ March 12, 2015 at 9:00 a.m. in the Building Construction Services large conference room.

ADJOURNMENT

The meeting was adjourned at 10:15 a.m.